

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
THE CITY OF NEW YORK,

Plaintiff,

-against-

GUTLOVE & SHIRVINT, INC.,

Defendant.  
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NOT FOR PUBLICATION  
MEMORANDUM & ORDER

08-CV-1372

AMON, United States District Judge:

The City of New York (the "City") brought this action against Gutlove & Shirvint, Inc. ("Gutlove"), alleging violations of the Contraband Cigarette Trafficking Act, 18 U.S.C. § 2341, et seq. On December 5, 2008, the Court granted Gutlove's motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. The City was given until December 15, 2008 to seek leave to amend the complaint. The City has not sought leave to amend. Accordingly, the case is dismissed.

The Clerk of the Court is directed to enter judgment in accordance with this Order and to close the case.

SO ORDERED.

Dated: Brooklyn, New York  
December 23, 2008

s/ CBA  
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Carol Bagley Amon  
United States District Judge